

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re REFCO, INC. SECURITIES
LITIGATION

07 MDL No. 1902 (JSR)

ECF FILED

GEORGE L. MILLER, Chapter 7 Trustee
for the Estate of Suffolk LLC,

Plaintiff,

v.

PF SALECO LLC, ET AL.,

Defendants.

Index No. 09 Civ. 2876 (JSR)

Index No. 09 Civ. 2904 (JSR)

Index No. 09 Civ. 2895 (JSR)

Index No. 09 Civ. 2901 (JSR)

Index No. 09 Civ. 2896 (JSR)

Index No. 09 Civ. 2934 (JSR)

Index No. 09 Civ. 2945 (JSR)

Index No. 09 Civ. 2929 (JSR)

Index No. 09 Civ. 2928 (JSR)

Index No. 09 Civ. 2915 (JSR)

**JOINDER OF THE LIMITED OBJECTION OF CREDIT SUISSE FIRST BOSTON
NEXT FUND, INC., LAB MORGAN CORPORATION, AND ML IBK POSITIONS, INC.
TO THE REPORT AND RECOMMENDATION OF THE SPECIAL MASTER ON THE
MOTION TO DISMISS THE AMENDED COMPLAINT ON BEHALF OF THE KATAS,
RANDALL YANKER, RANDALL YANKER AS TRUSTEE, AND JOEL PRESS**

Defendants Brad Kata, Edward J. Kata, Edward and Lorraine Kata, Glenn Kata, Gregg Kata, Scott Kata, Todd Kata, Randall Yanker, Randall Yanker as Trustee, and Joel Press (“Defendants”) respectfully submit this limited objection to the August 26, 2010 Report and Recommendation of the Special Master on the Motion to Dismiss the Amended Complaint (the “Second R&R”) in *Miller v. PF Saleco LLC, et al.*, No. 09 Civ. 2866 (the “*Miller Actions*”).

ARGUMENT

To avoid burdening the Court with duplicative briefing and to conserve resources, Defendants hereby fully adopt and incorporate by reference the Limited Objection to the Second R&R filed by Credit Suisse First Boston Next Fund, Inc., Lab Morgan Corporation, and ML IBK Positions, Inc. (the “Bank Defendants”) in the *Miller* Actions [Dkt. 858]. The arguments contained within the Bank Defendants’ Limited Objection are fully applicable to Plaintiff’s claims against Defendants and apply with equal force.

CONCLUSION

For the reasons set forth in the Bank Defendants’ Limited Objection to the Second R&R, this Court should (a) adopt the Second R&R to the extent the Second R&R concludes that Count II of the Amended Complaint should be dismissed with prejudice because Plaintiff has not adequately alleged the existence of a valid creditor, or alternatively because Plaintiff has not adequately alleged that the transactions he seeks to avoid were conducted with the intent to defraud any such creditor of Suffolk; (b) adopt the Second R&R to the extent the Second R&R concludes that Count V of the Amended Complaint should be dismissed with prejudice; and (c) in the event the Court reaches the issue, reject the Second R&R to the extent it concludes that Count II should not be dismissed with prejudice because Suffolk was not a conduit.

Dated: New York, New York
September 7, 2010

BAKER BOTTS L.L.P.

By: /s/ Maureen P. Reid
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Gregg Kata, Scott Kata, Todd Kata,
Randall Yanker, Randall Yanker as
Trustee, and Joel Press*

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of September 2010, a true and correct copy of the foregoing document, Joinder of the Limited Objection of Credit Suisse First Boston Next Fund, Inc., Lab Morgan Corporation, and ML IBK Positions, Inc. to the Report and Recommendation of the Special Master on the Motion to Dismiss the Amended Complaint on Behalf of the Katas, Randall Yanker, Randall Yanker as Trustee, and Joel Press, was electronically filed with the Clerk of the Court, Southern District of New York, and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Maureen P. Reid
Maureen P. Reid